

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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23-34 94th ST. GROCERY, CORP., KISSENA BLVD.
CONVENIENCE STORE, INC., NEW YORK
ASSOCIATION OF CONVENIENCE STORES, NEW
YORK STATE ASSOCIATION OF SERVICE
STATIONS AND REPAIR SHOPS, INC.,
LORILLARD TOBACCO COMPANY, PHILIP
MORRIS USA INC., and R.J. REYNOLDS
TOBACCO CO., INC.,

10 CV 4392 (JSR)(FM)

Plaintiffs,

- against -

NEW YORK CITY BOARD OF HEALTH, NEW
YORK CITY DEPARTMENT OF HEALTH AND
MENTAL HYGIENE, NEW YORK CITY
DEPARTMENT OF CONSUMER AFFAIRS, DR.
THOMAS FARLEY, in his official capacity as
Commissioner of the New York City Department of
Health and Mental Hygiene, and JONATHAN MINTZ,
in his official capacity as Commissioner of the New
York City Department of Consumer Affairs,

Defendants.

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**NOTICE OF CROSS-MOTION FOR
SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that, upon Defendants' Statement of Undisputed Material Facts Pursuant to Local Civil Rule 56.1, dated August 13, 2010; the Declaration of Thomas Farley, dated August 13, 2010, and the exhibits attached thereto; the Memorandum of Law, dated August 13, 2010; and upon the all the papers, pleadings and proceedings heretofore had and filed herein, the undersigned will cross-move this Court before the Honorable Jed S. Rakoff at the United States Courthouse for the Southern District of New York, located at 500 Pearl Street, New York, New York, on October 15, 2010 at 4:00 p.m., for an order pursuant to Rule 56(b) of the Federal Rules of Civil Procedure granting summary judgment to the

Defendants in the above-captioned action, together with such other and further relief as the Court deems just, fair and equitable.

PLEASE TAKE FURTHER NOTICE, that pursuant to the briefing schedule ordered by the Court on June 17, 2010, Plaintiffs shall serve their reply/opposition papers, if any, on or before September 24, 2010, and Defendants shall serve their reply papers, if any, on or before October 8, 2010.

Dated: New York, New York
August 13, 2010

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